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INTERSTATE COMMERCE COMMISSION  
LEASE OF RAILROAD EQUIPMENT

Dated as of June 19, 1975

Between

~~AMERICAN FLETCHER NATIONAL BANK AND TRUST COMPANY~~

as Trustee,

Lessor

and

INDIANA &amp; MICHIGAN ELECTRIC COMPANY,

Lessee

127 One Hundred-Ton Steel Triple Hopper  
Coal Cars

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Filed and recorded with the Interstate Commerce Commission  
pursuant to Section 20c of the Interstate Commerce Act on  
7/7, 1975, at 10:25 A.M., Recordation No. 7984-1A

# LEASE OF RAILROAD EQUIPMENT

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LEASE OF RAILROAD EQUIPMENT dated as of June 19, 1975, between AMERICAN FLETCHER NATIONAL BANK AND TRUST COMPANY, a national banking association, as Trustee ("Lessor") under Equipment Trust Agreement ("Trust Agreement") dated as of the date hereof with the Trustor named therein ("Trustor"), and INDIANA & MICHIGAN ELECTRIC COMPANY, an Indiana corporation ("Lessee").

In consideration of the mutual covenants, terms and conditions hereinafter contained, Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, the railroad equipment described in Schedule A attached hereto (hereinafter collectively referred to as the "Equipment", or individually as an "Item of Equipment"), subject to the terms and conditions set forth herein.

Lessor shall purchase such Equipment pursuant to an Assignment of Purchase Agreement (said Assignment of Purchase Agreement, as consented and agreed to by the Builder referred to below, is hereinafter called the "Assignment") whereby Lessee has assigned its interest in that certain Supplemental Contract among Lessee, American Electric Power Service Corporation ("AEPSC"), and Greenville Steel Car Company (the "Builder"), made as of February 18, 1975 (the "Supplemental Contract"), by the terms of which Lessee was designated as the Purchaser of the Equipment for all purposes under that certain Contract between AEPSC, as agent for an Operating Company of the American Electric Power System, and the Builder, made as of January 31, 1975 (the "Contract"; and hereinafter together with the Supplemental Contract referred to as the "Purchase Order").

This Lease is made upon the following terms and conditions:

1. TERM.

(a) An initial term of lease with respect to each Item of Equipment shall begin on the Delivery Date with respect to such Item of Equipment (as defined in Section 6 hereof) and, subject to the provisions of Section 13 hereof, shall extend until January 1, 1976 (the "Initial Term").

(b) Upon expiration of the Initial Term, a full term of lease with respect to each Item of Equipment then under lease shall commence and, subject to the provisions of Sections 13 and 14 hereof, shall terminate on January 1, 1991, the date on which the sixtieth (60th) quarterly payment of rent is due pursuant to Section 2 hereof (the "Full Term").

2. RENT. Lessee covenants and agrees to pay to Lessor, as rent for each Item of Equipment, without any deduction or setoff and without prior notice or demand,

(a) During the Initial Term with respect to each Item of Equipment, quarterly payments in arrears, for each calendar quarter or portion thereof during the Initial Term, in an amount equal to (x) .033928% of the Purchase Price of such Item of Equipment (as defined in Section 6 hereof), multiplied by (y) the lesser of (i) the number of days in such calendar quarter, and (ii) the number of days in such calendar quarter from and after the Delivery Date (but inclusive thereof).

(b) During the Full Term with respect to each Item of Equipment, sixty (60) quarterly payments in arrears, commencing with a payment on April 1, 1976, each such payment to be in an amount equal to 3.0535% of the Purchase Price of such Item of Equipment (as defined in Section 6 hereof).

Payments of rent are to be paid to Lessor at the address specified in Section 29 hereof.

Time is of the essence of this Lease. In the event that any rent or other payment due hereunder shall not have been paid on the date on which it becomes due and payable, Lessor may collect, and Lessee hereby agrees to pay, interest at the rate of twelve (12) per cent per annum on any part of any installment of rent not paid within ten (10) days after its due date. Lessee agrees that in the event that Lessee is in Default (as defined in Section 20 hereof) and this Lease is placed for collection in the hands of an attorney who is not a salaried employee of Lessor, to pay reasonable attorney's fees plus court costs.

3. REPORTS. Lessee will furnish Lessor, in such number of copies as may be reasonably requested by Lessor:

(a) Within one hundred twenty (120) days after the end of each fiscal year of Lessee, a balance sheet of Lessee as at the end of such year, and the related earnings statement of Lessee for such fiscal year, all in reasonable detail and certified by independent public accountants of recognized standing, selected by Lessee; and

(b) On or before March 31 in each year, commencing with March 31, 1976, an accurate statement (i) setting forth as at the preceding December 31 the quantity, description and road numbers of the Equipment then leased hereunder; (ii) setting forth the description and road number of each Item of Equipment that has suffered a Casualty Occurrence (as defined in Section 13(b) hereof) during the preceding calendar year (or since the date of this Lease in the case of the first such statement) and such other information regarding the condition and state of repair of the Equipment as Lessor may reasonably request; and (iii) stating that, in

the case of each Item of Equipment repainted or repaired during the period covered by such statement, the road numbers and the markings required by Section 7 hereof have been preserved or replaced. Lessor shall have the right by its agents to inspect Lessee's records with respect to the Equipment at the customary location of such records and to inspect the Equipment at such reasonable times as Lessor may request during the continuance of this Lease;

and, if requested in writing by Lessor:

(c) as soon as available and in any event within sixty (60) days after the end of the first, second and third quarterly accounting periods in each fiscal year of Lessee, a consolidated balance sheet of Lessee as at the end of such period and the related statement of income and retained earnings of Lessee for such period, setting forth in each case in comparative form the figures for the corresponding periods of the previous fiscal year, all in reasonable detail and certified as complete and correct, subject to changes resulting from year-end audit adjustments, by the principal financial or accounting officer of Lessee; and

(d) promptly after the filing thereof with the appropriate agency, a copy of any report filed by Lessee with the Securities and Exchange Commission on Form 8-K, U5S or 10-Q, or other similar forms then in effect, and with the Federal Power Commission, and with the Public Service Commission of Indiana.

4. AUTHORIZATION AND CERTIFICATION. Prior to Lessee's acceptance and use of the Equipment, and on the First Closing Date, the Second Closing Date and the Third Closing Date (as defined in the Trust Agreement) Lessor, and to the extent required by Lessor, Trustor and their successors and assigns, shall receive the following, in form and substance satisfactory to Lessor's counsel:

(a) Resolutions of the Board of Directors or validly authorized Executive Committee of Lessee, certified by the Secretary or an Assistant Secretary of Lessee, substantially in the form attached hereto as Exhibit No. 1, duly authorizing the assignment of the Purchase Order and the leasing of the Equipment hereunder and the execution, delivery and performance of the Assignment and this Lease and all related certificates, instruments and documents;

(b) Evidence as to due compliance with the insurance provisions of Section 12 hereof; and

(c) An opinion of Messrs. Borden & Ball, special counsel for Lessee, as to each of the matters set forth in sub-parts (a) through (k) of Section 5 hereof and as to such other matters as Lessor may reasonably request. In giving such opinion with respect to sub-part (k) of Section 5

hereof, such counsel may rely, as to matters of Indiana law and in respect of the Public Service Commission of Indiana, upon the opinion of Messrs. Livingston, Dildine, Haynie and Yoder, local counsel for Lessee. In rendering its opinion such special counsel may limit its opinion to its information and belief in respect of the following: failure to qualify in any jurisdictions other than Indiana and Michigan; conflict between this Agreement and any other agreement of Lessee other than the Mortgage and Deed of Trust (as defined in sub-part (b) of Section 5); and conflict with any franchise, license, permit, judgment and any governmental rule or regulation or order; any material default in respect of the Purchase Order or the Assignment as defined herein; and all of the matters set forth in sub-part (g) of Section 5 hereof.

5. LESSEE'S REPRESENTATIONS AND WARRANTIES. Lessee hereby represents and warrants to Lessor, Trustor, and their successors and assigns, that:

(a) Lessee is a corporation duly organized and existing in good standing under the laws of the State of Indiana and has the corporate power and authority to carry on its present business and operations as presently conducted and to own or hold under lease its properties and to perform its obligations under the Assignment and this Lease; and is duly qualified and authorized to do business in the State of Michigan and its failure so to qualify, in any other jurisdiction would not have a material adverse impact on the Assignment, this Lease and/or the Equipment.

(b) The assignment of the Purchase Order and the leasing of the Equipment from Lessor by Lessee, the execution and delivery of the Assignment and of this Lease and all related instruments and documents, and compliance by Lessee with the terms thereof and hereof, (i) have been duly and legally authorized by appropriate corporate action taken by Lessee; (ii) do not require any shareholder approval or approval or consent of any trustee or holders of any indebtedness or obligations of Lessee; and (iii) are not in contravention of, and will not result in a breach of, any of the terms of Lessee's Charter or its By-Laws, or of any provisions relating to shares of the stock of Lessee, or any loan agreements or indentures of Lessee, or any franchise, license, permit, judgment, law, governmental rule, regulation or order binding on Lessee or any other contract, agreement or instrument to which Lessee is a party or under which it is bound.

(c) The Purchase Order and the Assignment have each been duly authorized, executed and delivered by Lessee; each constitutes a legal, valid and binding obligation of Lessee enforceable against Lessee in accordance with the terms thereof; and Lessee is not in default in any material respect under the Purchase Order or the Assignment.



(d) The Assignment is effective to convey to Lessor the rights and claims purported to be conveyed thereby, free and clear of all liens and effective to retain in Lessee such rights and duties as are purported to be retained thereunder without any obligation, liability or duty whatsoever on the part of Lessor to exercise such rights or perform the duties so retained.

(e) This Lease and all other related documents with respect to the Equipment, when executed by the duly authorized officers of Lessee and delivered to Lessor, will constitute valid and legally binding obligations of Lessee, enforceable against Lessee in accordance with the terms thereof, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally, and by applicable laws (including any applicable common law and equity) which may affect the remedies provided therein.

(f) The right, title and interest of Lessor in and to the Equipment described in this Lease and the rent therefrom, is not now and will not be affected or impaired by the terms of any loan agreement or indenture or any other contract, agreement or instrument to which Lessee is a party, or under which it is bound, nor by any mortgage, deed of trust, lease or other lien or security interest of any nature whatsoever which now covers or affects any property or interests therein of Lessee; provided, however, that the leasehold interest of Lessee under this Lease shall be subject to a lien arising under that certain Mortgage and Deed of Trust, dated as of June 1, 1939, originally between Lessee and Irving Trust Company, as Corporate Trustee, and Frederick G. Herbst, as Individual Trustee, as the same has been and may from time to time hereafter be amended and supplemented (the "Mortgage and Deed of Trust").

(g) Except as disclosed in the letter of even date herewith furnished to Lessor, there are no actions, suits or proceedings pending, or to the knowledge of Lessee threatened, before any court, administrative agency, environmental council, arbitrator or governmental body which, individually or in the aggregate, will, if determined adversely to Lessee, materially impair its ability to perform its obligations under this Lease, the Purchase Order or the Assignment, or directly or indirectly affect or impair the title of Lessor to the Equipment.

(h) Upon the due filing and recordation of the Trust Agreement and this Lease with the Interstate Commerce

Commission pursuant to Section 20c of the Interstate Commerce Act, such filing and recordation will protect the interests of Lessor, the Trustor and their successors and assigns in and to the Equipment and no filing, recording or deposit (or giving of notice) with any other federal, state or local government or agency is necessary in order to protect such interests.

(i) No part of the Equipment, which consists solely of equipment used for the carriage of raw materials, constitutes (i) "utility assets" as defined in Section 2(a)(18) of the Public Utility Holding Company Act of 1935, as amended (the "1935 Act"), or (ii) facilities used for the generation, transmission, or distribution of electric energy for sale as referred to in Section 2(a)(3) of the 1935 Act; or (iii) a facility for the transmission or sale of electric energy within the meaning of the Federal Power Act, as amended.

(j) Lessee is a "holding company" and a "subsidiary company", as defined in subdivisions (7) and (8) respectively, of Section 2(a) of the 1935 Act; Lessee is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

(k) Neither the execution and delivery by Lessee of the Purchase Order, the Assignment, or this Lease and all documents required pursuant hereto, nor the performance by Lessee of any of the transactions specified herein and therein requires the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of any Federal, state or other governmental authority or agency (including, without limitation, the Public Service Commission of Indiana, the Federal Power Commission, the Interstate Commerce Commission and the Securities and Exchange Commission).

(l) Lessee is a subsidiary of American Electric Power Company, Inc. ("AEP"), the common parent of an affiliated group of corporations; AEP files a consolidated Federal income tax return which includes Lessee as a member of the affiliated group and has filed all consolidated Federal income tax returns required to be filed by it; Lessee has paid or made provision for the payment of its share of all taxes which have become due pursuant to said returns or pursuant to any assessment in respect thereof, except such taxes, if any, as are being contested in good faith; to the best of Lessee's knowledge and belief, AEP and the affiliated

group have paid or made provision for the payment of all taxes which have become due pursuant to said returns or pursuant to any assessment in respect thereof, except such taxes, if any, as are being contested in good faith; the consolidated Federal income tax liability of AEP and the affiliated group has been determined by the Internal Revenue Service and paid for all years prior to and including the fiscal year ended December 31, 1964.

(m) Lessee has not taken and will not take prior to each Delivery Date any action that would entitle Lessee to the status of "first user" with respect to any Item of Equipment within the meaning of the Internal Revenue Code of 1954, as amended (the "Code"), and the regulations issued thereunder.

(n) The financial statements of Lessee (copies of which have been furnished to Lessor) fairly present Lessee's financial condition and the results of its operations as of the date of and for the period covered by such statements, and since the date of such statements there has been no material adverse change in such conditions or operations.

(o) No representation or warranty of Lessee contained in this Lease or any written statement or other information furnished by or on behalf of Lessee in connection with the transactions contemplated hereby contains any untrue statement of a material fact.

#### 6. DELIVERY, INSPECTION AND ACCEPTANCE BY LESSEE.

Each Item of the Equipment shall be tendered for delivery to Lessor by Builder at Greenville, Pennsylvania. Such tender shall be deemed to be tender of delivery of each Item of Equipment by Lessor to Lessee hereunder. Upon tender of delivery, an inspector or inspectors designated by Lessee will inspect each Item of Equipment and, if the same is found to be in good order and in compliance with the provisions of the Purchase Order, will accept delivery of the same and will execute and deliver to Lessor a Certificate of Delivery with respect to such Item of Equipment (in substantially the form attached hereto as Exhibit No. 2) stating that such Item of Equipment has been inspected and accepted on behalf of Lessee on the date of such certificate and each Item of Equipment is marked in accordance with Section 7 hereof; whereupon, the same shall be deemed to have been delivered to and finally accepted by Lessee pursuant to this Lease and shall be subject thereafter to all of the terms and conditions of this Lease.

The date on which such Certificate of Delivery with respect to an Item of Equipment is executed by the inspector or inspectors designated by Lessee shall be the Delivery Date with respect to such Item of Equipment.

Lessee shall notify in writing or by telephone (promptly confirmed in writing), Lessor and the Trustor of the date on which the final Item of Equipment is to be tendered for delivery (which shall be not less than three (3) business days after such notice). On the date of the final Delivery Date with respect to any Item of Equipment, Lessee shall deliver to Lessor a certificate (substantially in the form attached hereto as Exhibit No. 3; the "Certificate of Cost") executed by an officer of Lessee, setting forth the Purchase Price of each Item of Equipment accepted on each Delivery Date. The Purchase Price of each Item of Equipment shall be calculated as the unit base price set forth in Schedule A hereto or such lower or higher amount as may be invoiced by the Builder and approved by Lessee on each Delivery Date, and charges for inspection.

Lessor shall not be liable for loss or damage occasioned by any cause, circumstance or event of whatsoever nature, including, but not limited to, failure of or delay in delivery, delivery to wrong place, delivery of improper equipment or property other than the Equipment, damage to the Equipment, governmental regulations, strike, embargo or other cause, circumstance or event, whether of like or unlike nature.

In the event that Lessee shall, for reasonable cause, refuse to accept any Item of Equipment, (i) Lessee will thereupon be assigned all rights and shall assume all obligations as purchaser of such Item of Equipment and will indemnify and hold Lessor harmless from and against any and all claims of the Builder or any other person in connection with the purchase thereof; and (ii) Lessee shall have all rights as the purchaser of such Item of Equipment and be entitled to pursue any and all remedies which may be available against the Builder or any other person for any failure or breach in connection with the manufacture and delivery of such Item of Equipment.

7. IDENTIFICATION OF EQUIPMENT. Lessee will, at its own cost and expense, cause each Item of Equipment to be kept numbered with the appropriate road number as set forth in Schedule A hereto, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Item of Equipment, in letters not less than one

(1) inch in height, the name of Lessor followed by the legend "Trustee, Owner-Lessor", with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect Lessor's title to and property in such Item of Equipment and the rights of Lessor under this Lease. Lessee will not place any Item of Equipment in operation or exercise any control or dominion over the same until such name and words shall have been so marked on both sides thereof and will replace promptly any such name and words which may be removed, defaced or destroyed. Lessee will not change the road number of any Item of Equipment except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with Lessor and filed, recorded and deposited by Lessee in all public offices where this Lease shall have been filed, recorded and deposited. Except as provided above in this Section, Lessee will not allow the name of any person, association or corporation to be placed on any Item of Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that Lessee may allow the Equipment to be lettered with the names or initials or other insignia customarily used by Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Equipment as permitted under this Lease.

#### 8. USE AND MAINTENANCE.

(a) Use. Lessee shall cause the Equipment to be used in a careful and proper manner.

Lessee shall be entitled to the possession of the Equipment and to the use of the Equipment upon and subject to all the terms and conditions of this Lease; provided, however, that Lessee shall not use, assign, or sublease the Equipment or any Item of Equipment except as permitted by Section 21 hereof, nor permit the use, assignment or sublease of the Equipment or any Item of Equipment to service involving the operation or maintenance thereof outside the United States of America.

(b) Compliance with Rules. Lessee agrees to comply in all respects (including, but without limitation, with respect to the use, maintenance and operation of each Item of Equipment) with all laws of jurisdictions in which its operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all rules of the Public Service Commission of Indiana, the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive,

administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration of any Item of Equipment, or in the event that any equipment or appliance on any Item of Equipment shall be required to be changed or replaced, or in the event that any additional or other equipment or appliance is required to be installed on any such Item of Equipment in order to comply with such laws or rules, Lessee will make such alterations, changes, replacements and additions at its own expense; provided, however, that Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not adversely affect the property or rights of Lessor under this Lease.

(c) Maintenance. Lessee, at its own expense, will keep and maintain, or cause to be kept and maintained, the Equipment in as good operating condition as when delivered to Lessee hereunder, ordinary wear and tear resulting from proper use thereof alone excepted, and will provide all maintenance and service and make all repairs necessary for such purpose.

In addition, if any parts or accessories comprising a portion of an Item of Equipment shall from time to time become worn out, lost, destroyed, damaged beyond repair or otherwise permanently rendered unfit for use, Lessee, at its own expense, will within a reasonable time replace such parts or accessories, or cause the same to be replaced, by replacement parts or accessories which are free and clear of all liens, encumbrances or rights of others and have a value or utility and remaining useful life at least equal to the parts or accessories replaced. All equipment, accessories, parts and replacements for or which are added to or become attached to any Item of Equipment shall immediately become the property of Lessor, and shall be deemed incorporated in the Equipment and subject to the terms of this Lease as if originally leased hereunder. Lessee shall not make any material alterations to any Item of Equipment (except as may be required in sub-part (b) hereof) without the prior written consent of Lessor, which consent shall not be unreasonably withheld.

Upon reasonable advance notice, Lessor shall have the right to inspect any Item of Equipment at any reasonable time and place.

9. DISCLAIMER OF WARRANTIES. LESSOR, NOT BEING THE MANUFACTURER OF THE EQUIPMENT, NOR THE MANUFACTURER'S AGENT,

MAKES TO LESSEE NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO: THE FITNESS FOR USE, DESIGN OR CONDITION OF THE EQUIPMENT; THE QUALITY OR CAPACITY OF THE EQUIPMENT; THE WORKMANSHIP IN THE EQUIPMENT; THAT THE EQUIPMENT WILL SATISFY THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATION OR CONTRACT PERTAINING THERETO; AND ANY GUARANTY OR WARRANTY AGAINST PATENT INFRINGEMENT OR LATENT DEFECTS, it being agreed that all such risks, as between Lessor and Lessee and their respective successors and assigns, are to be borne by Lessee. Lessor is not responsible or liable for any direct, indirect, incidental or consequential damage to or losses resulting from the operation or use of the Equipment. All warranties, guarantees, indemnities and servicing agreements made by the Builder to Lessor are hereby assigned to Lessee for and during the term of this Lease (unless Default shall have occurred pursuant to Section 20 hereof) together with any other rights Lessor may have against the Builder, and Lessee agrees to settle all such claims directly with the Builder. Any such claim shall not affect in any manner the unconditional obligation of Lessee to make rent payments hereunder.

#### 10. FEES AND TAXES.

(a) Payment by Lessee. To the extent permitted by law, Lessee shall file any necessary report for, and shall pay promptly when due, as additional rent, and shall otherwise be liable to reimburse Lessor for, and agrees to indemnify and hold Lessor harmless from, all titling, filing, recordation and other fees (including, but without limiting the generality thereof, any such fees required to effect compliance with any provisions of the Interstate Commerce Act or any rules and regulations thereunder), taxes (including, but without limiting the generality thereof, sales, use, excise, personal property, franchise or other taxes) assessments and all other charges or withholdings of any nature (together with any penalties, fines or interest thereon), arising at any time prior to or during the term of this Lease, or upon the return of the Equipment to Lessor, upon or relating to the Equipment or this Lease or with respect to the acquisition, ownership, use, operation, leasing, delivery, return or other disposition of the Equipment, or upon the rentals payable hereunder, whether the same be assessed to Lessor or Lessee. Lessor shall return and pay, subject to reimbursement by Lessee, any such tax or other imposition which Lessee is not permitted by law to report for and pay. With respect to any such tax reported and paid by Lessor, Lessee agrees to furnish to

Lessor any information or data relating to the Equipment which is necessary or appropriate for filing the return and which is known to Lessee.

(b) Limitation. Notwithstanding the foregoing sub-part (a), Lessee shall be obligated to pay or to reimburse Lessor for any franchise tax on Lessor's capital stock or net worth only to the extent that such tax arises under this Lease, and Lessee shall not be obligated to pay or reimburse Lessor for any tax imposed upon or measured by Lessor's net income, unless and only to the extent that, under applicable law or related regulations or rulings, it can be reasonably established that such taxes are in substitution for or relieve Lessee from the payment of any taxes which otherwise would be required to be paid or reimbursed by Lessee pursuant to such sub-part (a) and which are not franchise taxes referred to above or taxes on or measured by net income.

(c) Contest and refund. If claim is made against Lessor by a taxing jurisdiction for any tax or other imposition described in sub-part (a), or in sub-part (b) which Lessee is to pay or for which it is to make reimbursement, Lessor shall give Lessee prompt notice thereof. Lessee shall in good faith determine whether such tax or other imposition is to be contested, and if the decision to contest is made, Lessor and Lessee shall with due diligence and at Lessee's expense, contest (or Lessee shall be permitted to contest in the name of Lessor) the validity, applicability or amount of such tax or other imposition, by any one or more of the following (i) resisting payment thereof if practicable, (ii) not paying the same except under protest, if protest is necessary and proper, or (iii) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative and judicial proceedings. Lessor agrees fully to cooperate with Lessee in any such contest, and Lessee agrees promptly to indemnify Lessor for all reasonable expenses incurred by Lessor in the course of such cooperation. A claim for tax or other imposition shall be paid, subject to refund proceedings, if failure to pay would adversely affect the title, property or rights of Lessor hereunder. If Lessor shall obtain a refund of any such tax or imposition which has been paid (by Lessee or for which Lessor has been reimbursed by Lessee), Lessor shall pay to Lessee, within fifteen (15) days after the receipt thereof, the amount of such refund together with any interest thereon received by Lessor. If such refund is not paid to Lessee by Lessor within the fifteen (15) day period, then Lessee may collect, and Lessor agrees to pay, the amount of such refund together with interest thereon at the rate specified in Section 23 hereof, from the date of receipt



of such refund by Lessor. With respect to a claimed tax or other imposition which has not been paid pursuant to this sub-part (c), Lessee shall not be deemed to be in default under sub-part (a) so long as it shall be diligently prosecuting a contest with respect thereto in good faith by appropriate proceedings, and in accordance with the provisions hereof.

(d) Lessor's Option to Pay. If Lessee fails to pay when due any tax or other imposition payable by it under sub-part (a), Lessor at its option may do so, in which event the amount so paid (including any penalty or interest incurred as a result of Lessee's failure), plus interest thereon at the rate specified in Section 23 hereof from the date of payment by Lessor, shall be additional rent which shall be paid by Lessee to Lessor with the next periodic payment of rent.

(e) Lessee's Failure to Pay. If Lessee fails to pay to Lessor the additional rent required pursuant to sub-parts (a) and (d) hereof within fifteen (15) days after written notice from Lessor to Lessee requiring such payment, Lessor may collect, and Lessee hereby agrees to pay, the amount of such additional rent together with interest thereon at the rate specified in Section 23 hereof from the date of initial payment of such amounts by Lessor.

(f) Survival. The obligations of Lessor and Lessee under this Section shall survive the termination of this Lease.

11. TITLE. Title to the Equipment shall at all times remain in Lessor, and Lessee shall have no right, title or interest therein except as Lessee thereof as expressly set forth herein. Lessee will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to any Item of Equipment, any part thereof, title thereto or any interest therein, except (i) liens which result from acts of Lessor, (ii) liens for taxes either not yet due or being contested in good faith and by appropriate proceedings so long as such proceedings do not involve any danger of the sale, forfeiture or loss of any Item of Equipment or interest therein or interfere with the payment of rent, (iii) materialmen's, mechanics', workmen's, repairmen's, employees' or other like liens arising in the ordinary course of business, which are not delinquent, or are bonded, or the enforcement of which has been suspended, but then only for the duration of such suspension, (iv) liens arising out of judgments or awards against Lessee which have been bonded or with respect to which at the time an appeal or proceeding for review is being prosecuted in good faith and by appropriate proceedings and with respect to which there shall have been secured a stay of execution

pending such appeal or proceeding for review, and (v) the lien upon Lessee's leasehold interest in this Lease arising under the Mortgage and Deed of Trust. Lessee will promptly, at its own expense, take such action as may be necessary duly to discharge or eliminate or bond in a manner satisfactory to Lessor any such lien not excepted above if the same shall arise at any time. Except for liens expressly permitted by this Section, Lessee will notify Lessor of any lien that shall attach to any Item of Equipment within ten (10) days of the date on which Lessee first has knowledge of the attachment, together with full particulars thereof.

## 12. INSURANCE.

(a) Insurance. Lessee will, at all times while this Lease is in effect, at its own expense, cause to be carried and maintained programs of insurance with respect to all risks of loss or damage to the Equipment from every cause whatsoever, and public liability, both personal injury and property damage, covering the Equipment, with insurers of recognized responsibility, or self-insurance or risk assumption, in amounts and against risks customarily insured against by Lessee on similar equipment owned or leased by it. Lessor and its successors and assigns, shall be named as additional insureds on any such policies or renewals thereof. Lessee shall pay the premiums therefor and deliver to Lessor the policies of insurance or duplicates thereof, or other evidence satisfactory to Lessor of such insurance. Each insurer shall agree, by endorsement upon the policy or policies issued by it or by independent instrument furnished to Lessor, that it will give Lessor thirty (30) days' prior written notice of the effective date of any alteration or cancellation of such policy. In case of the failure of Lessee to procure or maintain such a program of insurance, Lessor shall have the right, but shall not be obligated, to give written notice to Lessee of such non-compliance and if unremedied within fourteen (14) days after such notice, may effect such insurance on behalf of Lessee, and, in that event, all monies spent by and expenses of Lessor in effecting such insurance plus interest thereon at the rate specified in Section 23 hereof shall be deemed to be additional rent, and shall be paid by Lessee to Lessor with the next periodic payment of rent.

(b) Application of Payments. Unless an Event of Default (as defined in Section 20 hereof) (or an event which

after lapse of time or giving of notice, or both, would become an Event of Default) shall then have occurred and be continuing, any insurance proceeds or condemnation or other payments received by Lessor in respect of an Item of Equipment suffering a Casualty Occurrence shall be applied as follows:

(a) if Lessee has elected alternative (i) of Section 13(b), such proceeds or payments shall be held by Lessor until the action required by Section 13(b)(1) has been completed and thereupon shall be paid to Lessee, up to an amount equal to the Stipulated Loss Value of the Item of Equipment suffering such Casualty Occurrence; or

(b) if Lessee has elected alternative (ii) of Section 13(b), such proceeds or payments shall be applied as a deduction from the amounts payable by Lessee to Lessor in respect of such Casualty Occurrence or, if received after Lessee has made such payments, to Lessee in reimbursement thereof.

Any such proceeds or payments in excess of the Stipulated Loss Value of any Item of Equipment suffering a Casualty Occurrence shall remain the property of Lessor.

### 13. LOSS AND DAMAGE; CASUALTY OCCURRENCE.

(a) Loss and Damage. As between Lessor and Lessee and their respective successors and assigns, Lessee hereby assumes and shall bear the entire risk of direct and consequential loss and damage to the Equipment from any and every cause whatsoever. Except as provided in this Section for discharge upon payment of Stipulated Loss Value, no loss or damage to any Item of Equipment shall release or impair any obligations of Lessee under this Lease, which shall continue in full force and effect and shall be absolute during the term hereof. Lessee agrees that Lessor shall not incur any liability to Lessee for any loss of business, loss of profits, expenses, or any other damages resulting to Lessee by reason of any delay in delivery or any delay caused by any non-performance, defective performance, or breakdown of the Equipment or any Item of Equipment, nor shall Lessor at any time be responsible for personal injury or the loss or destruction of any other property resulting from the Equipment. In the event of loss or damage to any Item of Equipment (other than as hereinafter defined as a "Casualty Occurrence"), Lessee shall, at Lessee's expense, as promptly as practicable, place the same in good repair, condition and working order.

(b) Casualty Occurrence. In the event that any Item of Equipment shall have become worn-out, lost, stolen, destroyed or irreparably damaged, from any cause whatsoever, or taken, requisitioned by condemnation or otherwise permanently appropriated to the public use by any duly authorized governmental authority including, without limitation, subjection to mandatory allocation pursuant to 49 U.S.C. Sections 1(12), (15) (any such occurrence being herein referred to as a "Casualty Occurrence") during the term of this Lease, Lessee shall give full and prompt notice thereof to Lessor, which notice shall inform Lessor as to Lessee's election of one of the following alternatives:

(1) Within one hundred twenty (120) days after the Casualty Occurrence, Lessee shall duly convey to Lessor as replacement for such Item of Equipment title to another Item of Equipment of the same type and quality, free and clear of all liens, encumbrances or rights of others whatsoever and having a value and utility at least equal to, and being in as good operating condition as, the Item of Equipment with respect to which such Casualty Occurrence happened was required to be by the terms of this Lease immediately prior to the happening of such Casualty Occurrence; and, upon such conveyance, Lessee, at its own expense, will promptly (1) furnish Lessor with a bill of sale, in form and substance satisfactory to Lessor, with respect to such replacement Item of Equipment, (2) execute a Certificate of Delivery with respect to such replacement unit, in form satisfactory to Lessor, and deliver the same to Lessor, (3) furnish Lessor with such evidence of title to such replacement Item of Equipment (including, if requested, an opinion of Lessee's counsel) and of the condition of such replacement Item of Equipment as Lessor may reasonably request, (4) furnish Lessor with an opinion of Lessee's counsel that such action has been taken with respect to the registration, deposit, recording and filing, including, but without limitation, filing and recording with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, of all such documents as are necessary or advisable to establish and perfect Lessor's title to and interest in such replacement Item of Equipment and reciting the details of such action, if not previously set forth, or stating that no such action is necessary for such purposes, (5) furnish Lessor with evidence of the registration, deposit, recording and filing (if any) specified in the opinion of Lessee's counsel furnished Lessor pursuant to the preceding clause (4), and (6) take such

other action as Lessor may reasonably request in order that such replacement Item of Equipment be duly and properly titled in Lessor and leased hereunder to the same extent as the Item of Equipment replaced thereby. Upon full compliance by Lessee with the terms of this subparagraph (i), Lessor will execute and deliver the Certificate of Delivery with respect to such replacement Item of Equipment and transfer to Lessee, without warranty (except as to Lessor's own acts), all Lessor's right, title and interest, if any, in and to the Item of Equipment with respect to which such Casualty Occurrence happened. Thenceforth for all purposes of this Lease, each such replacement Item of Equipment shall be deemed an Item of Equipment as defined herein; or

(ii) On the next date for the payment of rent succeeding such Casualty Occurrence, Lessee shall pay to Lessor all rent with respect to such Item of Equipment due and unpaid prior to such date for the payment of rent, plus the greater of: (x) the Stipulated Loss Value (as hereinafter defined); or (y) the Fair Market Value; of the Item of Equipment with respect to which the Casualty Occurrence has occurred. "Stipulated Loss Value" for an Item of Equipment as of any rent payment date shall equal the product of the Purchase Price of such Item of Equipment and the percentage specified for such rent payment date in Schedule B attached hereto.

If the parties are unable to agree on the Fair Market Value of the Equipment, then such value shall be determined as hereinafter provided and such Fair Market Value shall be binding on the parties hereto. Fair Market Value shall be determined by an independent railroad equipment appraiser mutually acceptable to Lessor and Lessee, whose expenses and fees shall be borne by Lessee. If the parties are unable to agree upon such a mutually acceptable appraiser, Lessor and Lessee, at their own expense, shall each select an independent railroad equipment appraiser and the value agreed upon by such two appraisers shall be the Fair Market Value. If such two appraisers are unable to agree upon the Fair Market Value, they shall select a third independent railroad equipment appraiser, whose expenses and fees shall be borne equally by Lessor and Lessee, and the average Fair Market Value as determined by such three appraisers shall be binding on the parties hereto.

Upon making such payment in respect of any Item of Equipment, this Lease shall terminate with respect

to such Item of Equipment so paid for and Lessee thereupon shall become entitled thereto as is where is without warranty, express or implied, with respect to any matter whatsoever.

(c) No Release; Rent to Continue. Except as hereinabove in this Section provided, Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Item of Equipment after delivery to and acceptance thereof by Lessee hereunder. Until Lessee shall have fully performed its obligations under either subparagraph (i) or (ii) of sub-part (b) hereof, it shall continue to pay rent as provided in Section 2 hereof with respect to the Item of Equipment involved in the Casualty Occurrence.

14. VOLUNTARY TERMINATION. Unless an Event of Default (or any event which after lapse of time or notice or both would become an Event of Default) shall then have occurred and be continuing, in the event that Lessee shall in its reasonable judgment determine that any Item of Equipment shall have become obsolete or surplus to Lessee's requirements, then Lessee may, at its option, upon not less than one hundred twenty (120) days' prior written notice to Lessor, terminate this Lease with respect to such Item of Equipment so determined to be obsolete or surplus on the rent payment date of the forty-first (41st) installment during the Full Term or on any rent payment date thereafter.

During the period from the giving of such notice until the effective date of termination, Lessee shall use its best efforts to obtain bids for the disposition (whether by sale or lease) of such Item of Equipment. Lessee shall certify to Lessor in writing the amount of each bid received by Lessee and the name and address of the party (who shall not be Lessee) submitting such bid.

Lessor may, but shall be under no duty to, solicit bids or otherwise take any action in connection with arranging such disposition of the Item of Equipment.

From all bids obtained, Lessee may select either a bid for the lease or for the purchase of such Item of Equipment, and Lessor shall accept Lessee's selection; provided, however, that if Lessee has selected a bid for lease, such bid shall satisfy Lessor as to (i) the credit worthiness and financial condition of the bidder, and (ii) the terms of

such lease. If Lessor is not satisfied as to any bid for lease, the Item of Equipment will be sold to the bidder for purchase selected by Lessee.

On the effective date of termination, Lessor shall sell such Item of Equipment or enter into a new lease of such Item of Equipment as herein provided and Lessee shall pay to Lessor, in cash, the amount, if any, by which (i) the proceeds of any such sale (less all reasonable expenses incurred by Lessor in connection with such sale) or the current value of the projected net rentals of any such lease (discounted at the rate of nine (9) per cent), is less than (ii) the Termination Value (as hereinafter defined) of such Item of Equipment as of such date. Any excess of proceeds or current value over the Termination Value shall be to the account of Lessor.

"Termination Value" for an Item of Equipment as of any rent payment date shall equal the product of the Purchase Price of such Item of Equipment and the percentage specified for such rent payment date in Schedule C attached hereto.

15. OPTION TO PURCHASE. Unless an Event of Default (or any event which after lapse of time or notice or both would become an Event of Default) shall then have occurred and be continuing, Lessee shall have the option to purchase, upon the expiration of the Full Term of this Lease, or of any renewal term as provided in Section 16 hereof, any Item of Equipment or all of the Equipment then subject to this Lease upon the following terms and conditions:

If Lessee desires to exercise this option it shall, at least one hundred eighty (180) days before expiration of the term of this Lease then in effect, give Lessor written notice of its election to purchase and shall, upon the expiration of the term of this Lease then in effect, pay to Lessor in cash the option purchase price for the Item of Equipment so purchased, determined as hereinafter provided, against delivery of a bill of sale transferring and assigning to Lessee without recourse or warranty, except in respect of Lessor's acts, all of Lessor's right, title and interest in and to such Item of Equipment, free and clear of liens arising from Lessor's acts. Lessor shall not be required to make and may specifically disclaim any representation or warranty as to the condition of such Item of Equipment or any other matter whatsoever, except as provided in the preceding sentence.

In order to avoid any inadvertent loss of any right to purchase the Equipment as provided in this Section, if

Lessee shall fail to give timely notice of its election of any such right unless Lessee shall have given affirmative disavowal of such right, Lessee's right to purchase shall nevertheless continue as shall the term of Lease then in effect (under the same terms and conditions as theretofore in effect) until ten (10) days after Lessor shall have given to Lessee written notice of the non-receipt of such timely notice. Lessee may exercise its right to purchase at any time until the expiration of such ten (10) day period by giving Lessor written notice of its election to purchase, which such notice shall have the same force and effect as hereinabove provided without other action by Lessor or Lessee, the same as if such notice had been timely given by Lessee. If Lessee fails to exercise its right to purchase within such ten (10) day period, the term of Lease then in effect upon the expiration of such ten (10) day period shall continue under the same terms and conditions as theretofore in effect for one hundred eighty (180) days.

The option purchase price of such Item of Equipment shall be an amount equal to its then Fair Market Value. If the parties are unable to agree on the Fair Market Value of the Item of Equipment, then such value shall be determined as provided in Section 13(b) hereof.

Notwithstanding any election of Lessee to purchase, all provisions of this Lease, including without limitation those with regard to payment of rent and Stipulated Loss Value and Termination Value provided herein, shall continue in full force and effect until the date of purchase and the passage of ownership of the Item of Equipment upon the date of purchase.

16. OPTION TO RENEW. Unless an Event of Default (or any event which after lapse of time or notice or both would become an Event of Default) shall then have occurred and be continuing, Lessee shall have the option to renew this Lease, at the expiration of the Full Term of this Lease, or of any renewal term as herein provided (subject to the limitation hereinafter set forth), with respect to any Item of Equipment or all of the Equipment, on the terms and conditions of this Lease, for a maximum of three (3) renewal terms of five (5) years each, at a negotiated rent based on the Fair Market Rental Value of such Item of Equipment determined at the time or renewal.

If the parties are unable to agree on the Fair Market Rental Value of the Equipment then such value shall be determined as provided in Section 13(b) hereof.

If Lessee desires to exercise this option it shall, at least one hundred eighty (180) days before expiration of the



term of this Lease then in effect, give Lessor written notice of its election to renew; and shall engage in negotiations with Lessor to determine the rent to be paid during such renewal term. In order to avoid any inadvertent loss of any right to renew this Lease as provided in this Section, if Lessee shall fail to give timely notice of its election of any such right unless Lessee shall have given affirmative disavowal of such right, Lessee's right to renew shall nevertheless continue as shall the term of Lease then in effect (under the same terms and conditions as theretofore in effect) until ten (10) days after Lessor shall have given to Lessee written notice of the non-receipt of such timely notice. Lessee may exercise its right to renew at any time until the expiration of such ten (10) day period by giving Lessor written notice of its election to renew, whereupon this Lease shall be renewed as hereinabove provided without other action by Lessor or Lessee, the same as if such notice had been timely given by Lessee. If Lessee fails to exercise its right to renew within such ten (10) day period, the term of Lease then in effect upon the expiration of such ten (10) day period shall continue under the same terms and conditions as therefore in effect for one hundred eighty (180) days.

17. REDELIVERY.

(a) First Redelivery Period. Within forty-five (45) days after the expiration or earlier termination of the Full Term of this Lease (or of any renewal term as provided in Section 16 hereof) with respect to each Item of Equipment (the "First Redelivery Period"), Lessee shall (subject to Section 15 hereof), at its own expense, deliver possession of each Item of Equipment as to which such expiration or earlier termination shall then have occurred to Lessor upon such storage tracks as Lessee may designate, or, in the absence of such designation, as Lessor may select, and secure for Lessor storage rights for the Equipment on such tracks for a period not exceeding forty-five (45) days after the completion of delivery of each Item of Equipment as herein required, and Lessee will transport the same, at any time within such period, to the nearest carrier for shipment, all as directed by Lessor; such movement to the nearest carrier and storage of the Equipment to be at the expense and risk of Lessee.

(b) Delayed Redelivery. If Lessee is unable, for reasons beyond its reasonable control, to deliver possession of each Item of Equipment as herein required during the First Redelivery Period with respect to such Item of Equipment, then Lessee shall have an additional forty-five (45) day period within which to deliver possession of each Item

of Equipment as herein required. Lessor may collect at reasonable intervals, and Lessee hereby agrees to pay, additional rent for each Item of Equipment the possession of which is not delivered during the First Redelivery Period, calculated as .033928% of the Purchase Price of such Item of Equipment per day for each day from the date on which such duty to redeliver initially arose until the date on which possession is delivered as herein required.

(c) General. During any storage period, Lessee will permit Lessor or any person designated by Lessor, including the authorized representative or representatives of any prospective purchaser of any Item of Equipment, to inspect the same; provided, however, that Lessee shall not be liable, except in the case of the negligence of Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease and, upon application to any court of equity having jurisdiction in the premises, Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of Lessee so to deliver, store and transport the Equipment.

(d) Condition upon Redelivery. Upon such redelivery, the Equipment shall be in the same condition as when delivered to Lessee hereunder, ordinary wear and tear resulting from proper use thereof alone excepted. In the event that repairs are made necessary to place the Equipment in the condition required in this sub-part (d), Lessee agrees to pay the reasonable cost of such repairs and further agrees to pay Lessor rent for the period of time reasonably necessary to accomplish such repairs, calculated as set forth in sub-part (b) hereof.

(e) Free and Clear of Liens. Upon such redelivery, the Equipment shall be free and clear of all liens, encumbrances or rights of others whatsoever except: (x) liens or encumbrances resulting from claims against Lessor not relating to the ownership of such Equipment; or (y) liens for taxes either not yet due or being contested in good faith and by appropriate proceedings, which have been bonded or otherwise secured by Lessee at its expense in a manner satisfactory to Lessor.

18. INTENT. It is the express intent of the parties that this agreement constitute a lease and in no event shall

this agreement be construed as a sale of the Equipment. The estimated useful life of each Item of Equipment exceeds the lease term provided herein by four (4) years or more and each Item of Equipment will have a residual value of at least twenty (20) per cent of the Purchase Price of such Item of Equipment (all as evidenced by the certificate of a qualified appraiser to be provided at Lessee's expense to Lessor prior to the commencement of the lease term). Lessee acknowledges that the Equipment leased hereunder is new equipment and shall not have been used or placed into operation by Lessee for its intended purposes prior to the execution and delivery of the Certificate of Delivery, and, further, that by virtue of this Lease, Lessee shall acquire no ownership, title, property, right, or interest (or any option therefor other than as may be expressly provided in Section 15 hereof) in the Equipment other than its leasehold interest solely as Lessee subject to all the terms and conditions hereof.

19. INDEMNIFICATION.

(a) General Indemnity. Lessee hereby assumes and agrees to indemnify, protect, save and keep harmless Lessor, Trustor, their successors and assigns, and their agents and employees, from and against any and all losses, damages, injuries, claims, demands and expenses, including legal expenses, of whatsoever kind and nature, arising on account of the ordering, acquisition, delivery or rejection of the Equipment (except to the extent that such costs are included in the Purchase Price of any Item of Equipment), the possession, maintenance, use, conditions (including without limitation, latent and other defects and whether or not discoverable by Lessor or Lessee, and any claim in tort for strict liability) or operation of any Item of Equipment; and by whomsoever used or operated, during the term of this Lease with respect to that Item of Equipment, the loss, damage, destruction, removal, return, storage, surrender, sale or other disposition of any Item of Equipment, except where occasioned by a breach of a duty or obligation of Lessor. It is understood and agreed, however, that Lessor shall give Lessee prompt notice of any claim or liability hereby indemnified against and that Lessee shall be entitled to control the defense thereof.

(b) Indemnity for Failure to Obtain Investment Tax Credit. If Lessor (as used in sub-parts (b)-(g) of this Section 19, such term shall be deemed to include both Lessor and Trustor) shall either lose, or shall not have, or shall lose the right to claim, or there shall be disallowed or

recaptured (other than as a result of an event as to which Lessee has paid Stipulated Loss Value) for federal or, if applicable, state income tax purposes any or all of the investment tax credit provided for in Sections 38 and 46 through 50 of the Code with respect to any Item of Equipment (such loss, inability to claim, disallowance or recapture being hereinafter called "Loss"), Lessee shall, subject to the provisions of sub-part (e) of this Section, within thirty (30) days after receipt of notification by Lessor of such Loss and written demand by Lessor for payment thereof (such date of receipt of notification is hereinafter referred to as the "Notice Date") (but not prior to payment by Lessor of the additional federal or state income tax arising from such Loss), pay Lessor as additional rent an amount which, after deduction of all taxes required to be paid by Lessor in respect of the receipt thereof under the laws of any governmental or taxing authority in the United States, shall be equal to the additional income taxes paid or payable by Lessor in consequence of such Loss, together with the amount of any interest (including any additional tax) or penalty which may be payable by Lessor in connection with such Loss.

(c) Indemnity for Failure to Obtain Accelerated Depreciation. If Lessor in computing its taxable income shall either lose, or shall not have, or shall lose the right to claim, or there shall be disallowed or recaptured (other than as the result of an event as to which Lessee has paid Stipulated Loss Value) for federal or state income tax purposes, in whole or in part, the allowance for depreciation with respect to any Item of Equipment in accordance with an accelerated method or methods referred to in Section 167(b) of the Code, including use of the Class Life Asset Depreciation Range System under Section 167(m) of the Code and Treas. Reg. §1.167(a)-11, and the shortest life for Asset Guideline Class 00.25 in Rev. Proc. 72-10, 1972-1 C.B., 721 ("Loss"), Lessee shall, subject to the provisions of sub-part (e) of this Section, pay to Lessor as additional rent, within thirty (30) days after receipt of notification from Lessor of such Loss and of written demand by Lessor for payment thereof (such date of receipt of notification is hereinafter referred to as the "Notice Date") (but not prior to payment by Lessor of the additional federal or state income tax arising from such Loss), an amount which, after deduction of all taxes required to be paid by Lessor in respect of the receipt thereof under the laws of any governmental or taxing authority in the United States, shall be equal to the additional income taxes paid or payable by Lessor for the period up to the payment by Lessor of such

additional taxes, together with the amount of any interest (including any addition to tax) or penalty which may be payable by Lessor in connection with such Loss. With respect to depreciation deductions for the period after such payment of additional income taxes by Lessor, the periodic rent payments shall be so adjusted that (with the assumption that Lessor will have sufficient taxable income fully to utilize the depreciation allowances contemplated in the preceding sentence of this sub-part (c)), Lessor will have the same taxable income in respect of the Equipment and this Lease as if Lessor had been allowed the depreciable life and depreciation method or methods referred to in such preceding sentence.

(d) Contest and Refund. If the Internal Revenue Service or state taxing authorities shall propose an adjustment in the income taxes of Lessor for which Lessee would be required to make additional rental payments under sub-parts (b) and (c) of this Section, Lessor shall give prompt notice, thereof to Lessee and, if requested in writing by Lessee, Lessor shall contest such disallowance or recapture with counsel of Lessee's choosing and at Lessee's sole expense. If it is decided that such claimed tax, together with any interest or penalty thereon, is to be paid by Lessor (with reimbursement of such amount to Lessor by Lessee within fifteen (15) days after payment by Lessor) and suit brought for refund, and Lessor receives a refund, Lessor shall, within fifteen (15) days after receipt thereof, pay to Lessee the total amount of such refund, together with any interest thereon paid by the taxing jurisdiction. If such reimbursement by Lessee, or payment of refund by Lessor, is not made within the fifteen (15) day period, then the appropriate party may collect, and the corresponding party agrees to pay, the amount of such reimbursement or refund together with interest thereon at the rate specified in Section 23 hereof, from the date of payment by Lessor or receipt of refund by Lessor, as may be applicable.

(e) Limitations. Lessee shall not be required to make any payment of additional rent for Loss of investment tax credit or of depreciation deductions due solely to any one or more of the following: (1) limitation on the amount of investment credit allowable due to lack of available income tax liability of Lessor or the affiliated group of which Lessor is a member, (2) the failure of Lessor or the affiliated group of which Lessor is a member to have in the current taxable year sufficient taxable income before deduction of depreciation allowances with respect to the Equipment to offset the full amount or any of such depre-

ciation allowances, (3) Lessor's failure timely or properly to claim investment credit or depreciation for any Item of Equipment in Lessor's income tax return, (4) Lessor's failure to take timely action with respect to a contest of Loss of investment credit or depreciation deduction if Lessor shall have been requested in writing by Lessee to take such action, (5) sale of any Item of Equipment or assignment of this Lease (otherwise than merely as security) by Lessor prior to any Default by Lessee, or (6) any change in or modification of the Code or state tax law other than changes or modifications affecting the amount of investment credit allowable before limitation or the computation of depreciation deductions. If any change in or modification of the Code or state tax law increases, with respect to any Item of Equipment, the amount of investment credit available to Lessor under present law, or authorizes depreciation deductions more favorable to Lessor than those contemplated in sub-part (c) of this Section, future periodic rent payments shall be so adjusted that Lessor will have the same taxable income in respect of any Item of Equipment and this Lease as contemplated under the present provisions of law with respect to the investment credit and depreciation allowances.

(f) Option of Lessee Upon Loss. If such Loss as provided in sub-parts (b) and (c) of this Section shall have occurred during the term of this Lease at any time after the fortieth (40th) rent payment date, then, unless an Event of Default (or any event which after lapse of time or notice or both would become an Event of Default) shall have occurred and be continuing, Lessee shall have an option to purchase all but not less than all of the Equipment subject to this Lease at and for a total purchase price equal to the greater of: (x) Stipulated Loss Value, or (y) the Fair Market Value (determined as provided in Section 15 hereof), of each Item of Equipment as of the rent payment date next succeeding the receipt by Lessor of the purchase price, upon the following terms and conditions:

(i) If Lessee desires to exercise this option it shall, within thirty (30) days after the Notice Date, give Lessor written notice of its election to purchase; and

(ii) Within sixty (60) days after the Notice Date, Lessee shall pay to Lessor in cash the purchase price for the Equipment so purchased, determined as provided above, and upon receipt of such payment in full, this Lease shall terminate and Lessor will transfer to Lessee, without

warranty (except as to Lessor's own acts), all Lessor's right, title and interest, if any, in and to the Equipment.

(iii) Notwithstanding any election of Lessee to purchase, the provisions with regard to payment of rent and Loss and Damage provided in this Lease shall continue in full force and effect until the date of purchase and the passage of ownership of the Equipment.

(g) Survival. The obligations of Lessor and Lessee under this Section shall survive the termination of this Lease.

20. DEFAULT; REMEDIES. If (a) Lessee shall fail to make any payment of Stipulated Loss Value or Termination Value when due, or any payment of rent when due and fails to cure such non-payment of rent within ten (10) days after written notice thereof to Lessee by Lessor; or (b) Lessee shall fail to provide and maintain insurance as required by Section 12 hereof; or (c) Lessee shall assign or transfer its leasehold interest under this Lease or in the Equipment or any Item of Equipment, or sublet any Item of Equipment or otherwise permit any Item of Equipment to be operated or used by, or to come into or remain in the possession of, a party other than Lessee, except as expressly authorized in Section 21 hereof; or (d) Lessee shall fail to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure shall continue unremedied for a period of thirty (30) days after written notice thereof to Lessee by Lessor unless such failure is of such a nature that with due diligence and adequate resources it cannot be cured within thirty (30) days, then Lessee, provided that efforts to cure such failure have been commenced and are prosecuted diligently, shall have an additional sixty (60) days after the initial thirty (30) day period provided herein; or (e) any representation or warranty of Lessee made herein or in any certificate or document delivered pursuant hereto shall prove to have been materially incorrect when made; or (f) Lessee shall become insolvent or bankrupt or make an assignment for the benefit of creditors or consent to the appointment of a trustee or receiver; or (g) a trustee or a receiver shall be appointed for Lessee or for a substantial part of its property without its consent and shall not be dismissed for a period of sixty (60) days; or (h) bankruptcy, arrangement, reorganization or insolvency proceedings shall be instituted by or against Lessee and, if instituted against Lessee, shall not be dismissed within ninety (90) days; then, in any such event (herein referred to as an "Event of Default") Lessor may, at its option, by written notice to Lessee of its election, declare this Lease to be in default (herein referred to as "Default"), and at any time thereafter, may do any one or more of the following, all of which are hereby authorized by Lessee:

(a) terminate this Lease and, upon the written demand of Lessor, require Lessee, at Lessee's expense, to return promptly any Item of Equipment to Lessor at the location, in the condition and otherwise in accordance with all of the terms of Section 17 hereof, or at Lessor's option, enter upon the premises where any Item of Equipment is located and take immediate possession of and remove the same by summary proceedings or otherwise, all without liability to Lessee for or by reason of such entry or taking of possession, whether for the restoration of damage or property caused by such taking or otherwise, provided, Lessor shall cause reasonable care to be used;

(b) terminate this Lease and sell any Item of Equipment at public or private sale and with or without notice to Lessee or advertisement, as Lessor may determine, or otherwise dispose of, hold, use, operate, lease to others or keep idle any Item of Equipment as Lessor in its sole discretion may determine, all free and clear of any rights of Lessee and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto except to the extent required by sub-part (d) of this Section in the event Lessor elects to exercise its rights under said provision in lieu of its rights under sub-part (c) of this Section;

(c) whether or not Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under sub-parts (a) or (b) of this Section, Lessor, by written notice to Lessee specifying a payment date not earlier than fifteen (15) days from the date of such notice, may require Lessee to pay to Lessor, on the date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty, any unpaid rent due up to but not including the rent payment date (or the date which would have been such rent payment date but for the termination of this Lease) next following the date specified in such notice plus an amount equal to the excess, if any, of (1) the Stipulated Loss Value of each Item of Equipment under lease immediately prior to the date specified in such notice, computed as of such rent payment date next following the date specified in such notice, over (2) the then present value of the Fair Market Rental Value of each Item of Equipment for the remainder of the lease term (together with interest on such amount at the rate of one (1) per cent per month, where permitted by law, from the date specified in such notice to the date of actual payment);

(d) in the event Lessor, pursuant to sub-part (b)



of this Section, shall have sold or otherwise disposed of any Item of Equipment, Lessor, in lieu of exercising its rights under sub-part (c) of this Section, may, if it shall so elect, require Lessee to pay Lessor, as liquidated damages for loss of a bargain and not as a penalty, any unpaid rent due up to but not including the rent payment date (or the date which would have been such rent payment date but for the termination of this Lease) next following the date of such sale or other disposition plus an amount equal to the excess, if any, of (1) the Stipulated Loss Value of each Item of Equipment computed as of such rent payment date, over (2) the net proceeds of any such sale or other final disposition or the current value of the projected net rentals from any re-leasing (discounted at the rate of nine (9) per cent), together with interest at the rate of one (1) per cent per month, where permitted by law, on the amount of such excess from the date of such sale or other disposition until the date of actual payment; and/or

(e) Lessor may exercise any other right or remedy which may be available to it under applicable law or proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof or to rescind this Lease as to any Item of Equipment.

In addition, Lessee shall be liable for any and all unpaid additional rent due hereunder before, after or during the exercise of any of the foregoing remedies; and for all reasonable legal fees and other costs and expenses incurred by reason of any Default or the exercise of Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Item of Equipment in accordance with the terms of Section 17 hereof or in placing such Item of Equipment in the condition required by said Section. Except as otherwise expressly provided above, no remedy referred to in this Section is intended to be exclusive, but each shall be cumulative, and shall be in addition to any other remedy referred to above or otherwise available at law or in equity. To the extent permitted by applicable law, Lessee hereby waives any notice or other mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, or which might require Lessor to sell, lease or otherwise use the Equipment in mitigation of Lessor's damages. Lessee hereby waives any and all existing or future claims to any offset against the rent payments due hereunder, and agrees to make the rent payments regardless of any offset or claim which may be asserted by Lessee or on its behalf in connection with the lease of the Equipment.

The failure of Lessor to exercise the rights granted hereunder upon the occurrence of any Event of Default shall not constitute a waiver of any such right upon the continuation or recurrence of any such Event of Default.

21. ASSIGNMENT BY LESSOR AND LESSEE.

(a) By Lessee. Except as hereinafter expressly provided, without the prior written consent of Lessor, which shall not be unreasonably withheld, Lessee shall not assign or transfer its leasehold interest under this Lease or in the Equipment or any Item of Equipment. Subject to Section 8(a) hereof, upon prior written notice to Lessor, Lessee may (x) assign or transfer its leasehold interest under this Lease or in the Equipment or any Item of Equipment to any Affiliate (as hereinafter defined) of Lessee, and (y) sublet any Item of Equipment or otherwise permit any Item of Equipment to be operated or used by, or to come into or remain in the possession of, a party other than Lessee.

As used in this sub-part (a), Affiliate shall mean any directly or indirectly wholly-owned subsidiary of American Electric Power Company, Inc.

No assignment or sublease, whether authorized in this Section or in violation of the terms hereof, shall relieve Lessee of its obligations hereunder and Lessee shall remain primarily liable hereunder.

(b) By Lessor. Lessor may at any time assign all of its right, title and interest hereunder, or any part thereof, to any other person with or without notice to Lessee.

This Lease shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

22. QUIET POSSESSION. Lessor hereby represents and warrants to Lessee that Lessor has the full right and authority to enter into this Lease on the terms herein stated, and that, conditioned upon Lessee performing all of the covenants and conditions hereof, Lessee shall peaceably and quietly hold, possess and use the Equipment during the term of this Lease subject to the terms and provisions hereof.

This Lease and Lessee's right and interest herein, and in the options to renew this Lease and to purchase the Equipment as herein expressly provided shall be completely prior to each and every deed of trust or mortgage or other

security instrument and each such instrument, whether heretofore, now or hereafter in existence shall in all respects be subject and subordinate to this Lease and Lessee's right and interest herein and in such options.

23. LESSOR'S RIGHT TO PERFORM FOR LESSEE. Subject to Section 12(a) hereof, if Lessee fails to perform or comply with any of its agreements contained herein other than with regard to the payment of rent or other monetary payments arising under this Lease, Lessor shall have the right, but shall not be obligated, to give written notice to Lessee of such failure and if unremedied within fourteen (14) days after such notice, may itself effect such performance or compliance, and the amount of any out of pocket expenses and other reasonable expenses of Lessor incurred in connection with the performance of or compliance with such agreement, together with interest thereon at the rate of one hundred twenty (120) per cent of the prime rate at Chase Manhattan Bank, N.A., New York City, on the date of payment by Lessor, shall be deemed additional rent, payable by Lessee upon demand.

24. RECORDING. At the sole expense of Lessee, Lessor will cause this Lease and the Trust Agreement to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit, record (and will refile, re-register, deposit and redeposit or re-record whenever required) any and all further instruments required by law or reasonably requested by Lessor for the purpose of proper protection, to its satisfaction, of the interest in the Equipment of Lessor, Trustor, and their successors and assigns, or for the purpose of carrying out the intention of this Lease and the Trust Agreement; and Lessee will promptly furnish to Lessor evidences of all such filings, registering, depositing or recording, and an opinion or opinions of counsel for Lessee with respect thereto satisfactory to Lessor's counsel.

25. AGENTS OR REPRESENTATIVES. Lessor may exercise any of its rights and perform any of its duties and responsibilities hereunder through agents, attorneys, or other authorized representatives of Lessor (which agent, attorney or representative may also be an employee, agent, attorney or representative of the Trustor) provided that Lessor

exercises due diligence in the selection of such agents, attorneys or representatives and any such agent, attorney or representative shall succeed to all of the rights, privileges, immunities, exculpation provisions and indemnities in favor of the Lessor hereunder.

26. CONCERNING LESSOR. Lessee acknowledges and agrees that American Fletcher National Bank and Trust Company is entering into this Lease solely in its capacity as trustee under the Trust Agreement and that it (or any entity acting as successor trustee under the Trust Agreement) shall not be liable or accountable under any circumstance whatsoever except to the extent of the Trust Estate (as defined in the Trust Agreement), or as otherwise expressly provided in the Trust Agreement and/or this Lease.

27. SUCCESSOR LESSOR. In the case of the appointment of any successor trustee pursuant to the terms of the Trust Agreement, such successor trustee shall, upon written notice by such successor trustee to Lessee, succeed to all the rights, powers and title and assume all of the obligations of Lessor hereunder and shall be deemed to be Lessor and the legal owner of the Equipment for all purposes hereof and the predecessor trustee shall be released from all further duties and obligations hereunder. No such appointment of any successor trustee shall require any consent or approval by Lessee or shall in any way alter the terms of this Lease or Lessee's obligations hereunder. The appointment of one successor trustee shall not exhaust the right to appoint further successor trustees pursuant to the Trust Agreement, but such right may be exercised repeatedly as long as this Lease may be in effect.

28. NET, NON-CANCELLABLE LEASE. This Lease is a net, non-cancellable lease and, except as otherwise provided herein, Lessee's obligation to pay all rent payable hereunder shall be absolute and unconditional and Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of Lessee against Lessor, Trustor, Builder or their successors and assigns, or under any document or transaction or for any other cause whatsoever; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of Lessor or Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Equipment from whatsoever cause, any liens, encumbrances or rights of others with respect to any Item of Equipment, the prohibition

of or other restriction against Lessee's use of any Item of Equipment, the interference with such use by any person or equity, the invalidity or unenforceability or lack of due authorization or similar proceeding against Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that all rent payable by Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, Lessee hereby waives any and all rights conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any Item of Equipment except in accordance with the express terms hereof. Each payment of rent made by Lessee hereunder shall be final and Lessee shall not seek to recover all or any part of such payment from Lessor for any reason whatsoever, other than as expressly set forth in Sections 10(c) and 19(d) hereof.

29. NOTICE. All notices and other communications hereunder shall be in writing, sent by certified mail, addressed to the other party at its respective address stated below the signature of such party or at such other address as such party shall from time to time designate in writing to the other party; and shall be effective from the date of receipt, except for such by Lessor, which shall be effective from the date of mailing if promptly confirmed by telephone.

30. FURTHER ASSURANCES. Lessee will promptly and duly execute and deliver to Lessor such further documents, instruments and assurances and take such further action as Lessor may from time to time reasonably request in order to carry out the intent and purpose of this Lease and to establish and protect the rights and remedies created or intended to be created in favor of Lessor hereunder.

31. MISCELLANEOUS. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect. No term or provision of this Lease may be changed, waived,

discharged or terminated orally, but only by an instrument in writing signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. The captions in this Lease are for convenience of reference only and shall not define or limit any of the terms or provisions hereof. This Lease shall in all respects be governed by, and construed in accordance with the laws of the State of Maryland, including all matters of construction, validity and performance; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

32. EXECUTION. This Lease may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

No security interest in this Lease may be created through the transfer or possession of any counterpart other than the original counterpart which shall be identified as the counterpart containing the receipt therefor executed by the Trustee on the signature page thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed as of the day and year first above written.

ATTEST:

AMERICAN FLETCHER NATIONAL BANK  
AND TRUST COMPANY,  
As Trustee

  
\_\_\_\_\_  
Authorized Officer

By: 

\_\_\_\_\_  
Vice President

LESSOR

Address: 101 Monument Circle  
Indianapolis,  
Indiana 46277  
Attn: Corporate Trust  
Department

ATTEST:

INDIANA & MICHIGAN ELECTRIC COMPANY

*[Signature]*  
Assistant Secretary

By:

*[Signature]*  
G. P. Maloney  
Vice President

LESSEE

Address: P.O. Box 18  
Bowling Green Station  
New York, New York 10004  
Attn: Vice President -  
Finance

Receipt of this original counterpart of the foregoing Lease  
is hereby acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 1975.

AMERICAN FLETCHER NATIONAL BANK  
AND TRUST COMPANY,  
As Trustee

\_\_\_\_\_  
Vice President

STATE OF New York :

COUNTY OF New York :

SS:

On this 30<sup>th</sup> day of JUNE, 1975, before me personally  
appeared JOHN G. EGGER, to me personally  
known, who, being by me duly sworn, says that he is a Vice  
President of American Fletcher National Bank and Trust  
Company, that the seal affixed to the foregoing instrument  
is the corporate seal of said association, that said instrument  
was signed and sealed on behalf of said association, by  
authority of its Board of Directors, and he acknowledged  
that the execution of the foregoing instrument was the free

act and deed of said association,

David G. Hume  
Notary Public

My Commission Expires: **DAVID G. HUME**  
**NOTARY PUBLIC, State of New York**  
**No. 31-4608113**  
**Qualified in New York County**  
**Commission Expires March 30, 1977**

STATE OF NEW YORK :  
COUNTY OF NEW YORK : SS:

On this 27<sup>th</sup> day of JUNE, 1975, before me personally appeared G. P. Maloney, to me personally known, who, being by me duly sworn, says that he is a Vice President of Indiana & Michigan Electric Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation, by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

C. Robert Roll  
Notary Public

My Commission Expires: March 30, 1977.

**C. ROBERT ROLL**  
**NOTARY PUBLIC, STATE OF NEW YORK**  
**No. 41-3332850**  
**Qualified in Queens County**  
**Commission Expires March 30, 1977**



# SCHEDULE A

<u>Description</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Inclusive)</u>	<u>Unit Base Price</u>
100-Ton Triple Hopper Coal Cars in accordance with specifications set forth in the Contract (as defined in the Lease)	127	AEPX-1874 to AEPX-2000	\$28,500.00*

All cars will be delivered at Builder's  
plant at Greenville, Pennsylvania.

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\*Subject to escalation as provided in the Purchase Order (as  
defined in the Lease) and to revision pursuant to Section 6  
of the Lease.

SCHEDULE B

SCHEDULES OF STIPULATED LOSS VALUES

<u>RENT PAYMENT</u> <u>DATE</u>	<u>PERCENT</u>	<u>RENT PAYMENT</u> <u>DATE</u>	<u>PERCENT</u>
Initial Term 1	110.364	31	74.239
Initial Term 2	110.364	32	72.812
1	110.364	33	71.333
2	110.660	34	69.823
3	110.885	35	68.283
4	111.052	36	66.172
5	111.158	37	65.110
6	111.204	38	63.476
7	111.187	39	61.809
8	111.113	40	60.109
9	110.979	41	58.375
10	110.785	42	56.606
11	104.120	43	54.803
12	103.807	44	52.963
13	103.437	45	51.087
14	103.008	46	49.173
15	102.519	47	47.221
16	101.974	48	45.230
17	101.372	49	43.199
18	100.712	50	41.128
19	93.583	51	39.016
20	92.809	52	36.862
21	91.980	53	34.664
22	91.094	54	32.423
23	90.150	55	30.137
24	89.153	56	27.806
25	88.102	57	25.428
26	86.995	58	23.003
27	79.421	59	20.530
28	78.206	60	18.007
29	76.938		
30	75.616		

SCHEDULE C

SCHEDULE OF TERMINATION VALUES

<u>RENT PAYMENT</u> <u>DATE</u>	<u>PERCENT</u>	<u>RENT PAYMENT</u> <u>DATE</u>	<u>PERCENT</u>
Initial Term 1	104.760	30	66.524
Initial Term 2	104.760	31	64.994
1	104.760	32	63.411
2	104.961	33	61.774
3	105.091	34	60.103
4	105.160	35	58.399
5	105.167	36	56.662
6	105.112	37	54.891
7	104.993	38	53.085
8	104.814	39	51.243
9	104.574	40	49.365
10	104.273	41	47.451
11	97.498	42	45.498
12	97.074	43	43.508
13	96.591	44	41.478
14	96.046	45	39.408
15	95.440	46	37.298
16	94.776	47	35.146
17	94.053	48	32.952
18	93.269	49	30.715
19	86.015	50	28.434
20	85.114	51	26.108
21	84.155	52	23.736
22	83.138	53	21.318
23	82.060	54	18.852
24	80.927	55	16.338
25	79.737	56	13.775
26	78.490	57	11.161
27	70.773	58	8.495
28	69.412	59	5.778
29	67.996	60	3.007

EXHIBIT NO. 1

CORPORATE CERTIFICATE OF RESOLUTIONS

I hereby certify to AMERICAN FLETCHER NATIONAL BANK AND TRUST COMPANY, as Trustee ("Lessor") under that certain Equipment Trust Agreement ("Trust Agreement") dated as of \_\_\_\_\_, 1975, with the Trustor named therein ("Trustor"), and to the Trustor, that I am the Secretary of INDIANA & MICHIGAN ELECTRIC COMPANY, a corporation of the State of Indiana, and that the following is a true copy of resolutions duly adopted by the Board of Directors of the Corporation on the \_\_\_\_\_ day of \_\_\_\_\_, 1975, and further that such resolutions are in conformity with the Charter and By-Laws of the Corporation and are in full force and effect on the date hereof and have not been modified or rescinded:

"RESOLVED, That the form, terms and provisions of the Lease of Railroad Equipment ("Lease") to be entered into by and between this Corporation and Lessor, copies of which have been submitted to this meeting, providing for the leasing of equipment by this Corporation be, and the same hereby are, in all respects approved; and

"FURTHER RESOLVED, That the President and any Vice-President or any other officer of this Corporation be, and each of them hereby is, authorized in the name and on behalf of this Corporation to lease from Lessor, under the terms of said Lease, such equipment as such officer, in his sole discretion, may determine, and for this purpose to execute and deliver in the name and on behalf of this Corporation the Lease in substantially the form submitted to this meeting, with such changes, additions and amendments thereto as shall be approved by the officer who executes the same, and such other agreements, documents and instruments, as such officer may deem proper and advisable in relation thereto, and to do all such other acts and things as may be required to consummate this leasing arrangement"; and

"FURTHER RESOLVED, That the Secretary of this Corporation is authorized and directed to deliver and certify to Lessor and Trustor a certified copy of these resolutions and that the same are in conformity with the Charter and By-Laws of this Corporation."

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of this Corporation this \_\_\_\_\_ day of \_\_\_\_\_, 1975.

\_\_\_\_\_  
Secretary

(Corporate Seal)

EXHIBIT NO. 2

CERTIFICATE OF DELIVERY

Under Lease of Railroad Equipment dated as of \_\_\_\_\_  
\_\_\_\_\_, 1975 (the "Lease")

The undersigned, being the duly authorized representatives of AMERICAN FLETCHER NATIONAL BANK AND TRUST COMPANY, Trustee (the "Lessor"), and INDIANA & MICHIGAN ELECTRIC COMPANY (the "Lessee"), hereby certify that the following units of railroad equipment, referred to in the Lease between Lessor and Lessee,

100-TON TRIPLE HOPPER  
COAL CARS

<u>Quantity</u>	<u>Lessee's Road Numbers (Inclusive)</u>	<u>Acceptance Date</u>
_____	AEPX- _____ to _____ AEPX- _____	_____, 1975

have been duly delivered to Lessor in good order and duly inspected and accepted by the undersigned on the date shown above on behalf of Lessor, and have thereby been duly delivered by Lessor to Lessee and have been duly inspected and accepted by the undersigned on said date on behalf of Lessee as conforming in all respects to the requirements and provisions of the Lease.

The undersigned further CERTIFY that at the time of its delivery to Lessor and Lessee each unit of railroad equipment covered by this Certificate was properly marked on each side thereof with the following legend:

AMERICAN FLETCHER NATIONAL BANK AND TRUST COMPANY:  
TRUSTEE, OWNER-LESSOR

\_\_\_\_\_  
\_\_\_\_\_  
Duly Authorized Representatives  
of AMERICAN FLETCHER NATIONAL  
BANK AND TRUST COMPANY, Trustee,  
and INDIANA & MICHIGAN ELECTRIC  
COMPANY

EXHIBIT NO. 3

CERTIFICATE OF COST

Indiana & Michigan Electric Company hereby certifies that the Purchase Price of each Item of Equipment leased under a Lease of Railroad Equipment dated \_\_\_\_\_, 1975, between American Fletcher National Bank and Trust Company, as Trustee, as lessor, and Indiana & Michigan Electric Company, as lessee (the "Lessee"), is the amount invoiced by Greenville Steel Car Company (the "Builder"), which invoice is approved by Lessee and a copy of which is attached hereto, plus the Inspection Fee specified below, to be paid to Burlington & Northern Railroad upon receipt of an appropriate invoice.

Builder's Invoice                      \$ \_\_\_\_\_/Item of Equipment

Inspection Fee                        \$26.00/Item of Equipment

Total Purchase Price  
of Equipment covered  
by this Certificate                      \$ \_\_\_\_\_

INDIANA & MICHIGAN ELECTRIC COMPANY  
Lessee

By: \_\_\_\_\_  
G. P. Maloney  
Vice President